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Attorneys For Defendants TECHNICHEM, INC., MARK J. NG,  
and STEPHEN S. TUNG

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

VIRGINIA PELLEGRINI, Trustee of the  
Mario J. and Virginia E. Pellegrini Trust,  
and VIRGINIA PELLEGRINI, an  
individual

Plaintiff,

v.

TECHNICHEM, INC., a California  
corporation; MARK J. NG, an individual;  
and STEPHEN S. TUNG, an individual,

Defendants.

Case No. 07-CV-02497-CRB

***EX PARTE* APPLICATION AND  
ORDER EXTENDING TIME TO  
PLEAD**

Courtroom: 8, 19<sup>th</sup> floor  
Judge: Charles R. Breyer

Complaint Filed: May 9, 2007

**NOTICE OF EX PARTE APPLICATION**

PLEASE TAKE NOTICE that Defendants TECHNICHEM, INC., MARK J. NG, and STEPHEN S. TUNG (collectively "Defendants") respectfully submit the following *Ex Parte* Application for an additional 15 days to respond to plaintiffs' complaint, up to and including June 25, 2007. Defendants bring this Application pursuant to Local Rule 7-10 and paragraph 4 of this Court's Standing Order. Plaintiffs' counsel intends to oppose this Application. This Application is supported by the following memorandum of points and authorities reflecting the requisite good cause and the Declaration of Brian M. Ledger.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I.**

**FACTS**

Plaintiffs filed the complaint on May 9, 2006. (Docket Entry No. 1) Plaintiffs served the complaint on defendant Marc J. Ng by substitute service on May 14, 2007. Plaintiffs served the complaint on defendant Stephen S. Tung by personal service on May 15, 2007. Plaintiffs served the complaint on the agent for service of process for defendant Technichem, Inc. on May 16, 2007. (Docket Entry Nos. 4, 5, and 7)

On May 30, 2007, defense counsel contacted plaintiffs' counsel and requested a 15-day extension to respond to plaintiffs' complaint, which consists of 39 pages and 20 causes of action in a complex environmental cost recovery action. (Paragraph Nos. 2 and 5 of Declaration of Brian M. Ledger, hereinafter "Ledger Decl." attached as Exhibit "A") Defense counsel requested the same 15-day on June 1, 2007 and again on June 4, 2007; but plaintiffs' counsel would only provide a 5-day extension. (Ledger Decl. ¶¶ 3-4) Pursuant to Local Rule 6.1(a), the parties stipulated to extend the time for Defendants to respond to the complaint by 5 days. (See attached Exhibit "B")

Defense counsel has made multiple unsuccessful attempts to stipulate with plaintiffs' counsel to a 15-day extension. (See Ledger Decl. ¶¶ 2-4) Plaintiffs' counsel has not agreed to more than a 5-day extension. Consequently, Defendants bring this *Ex Parte* Application for an additional 15 days to respond to plaintiffs' complaint, up to and including June 25, 2007.

**II.**

**GOOD CAUSE EXISTS FOR DEFENDANTS' EX PARTE APPLICATION**

It is Defendants' burden, as the movants, to show good cause for the hearing of their request on an *ex parte* basis. Mission Power Eng'g Co. v. Cont'l. Ca. Co., 883 F.Supp. 488, 492 (C.D. Cal. 1995). Defendants satisfy this burden because the



1 current deadline for defendant Mark Ng to respond to the plaintiff's complaint is  
2 June 8, 2007. The current deadline for defendants Technichem, Inc. and Stephen  
3 Tung is June 11, 2007. Thus, a determination from this Court as to whether an  
4 extension of time is approved is needed on an expedited basis because there is  
5 insufficient time to request such a change under Local Rules 6-1 or 6-2.  
6 Otherwise, Defendants will be prejudiced by the short period of time for their  
7 response and assertion of issues that must be included with the first appearance of  
8 a party. (Ledger Decl. ¶ 7) Accordingly, good cause exists for the hearing of this  
9 Application on an *ex parte* basis under Local Rule 7-10 and paragraph 4 of this  
10 Court's Standing Order.

### 11 III.

#### 12 **GOOD CAUSE EXISTS FOR AN EXTENSION OF TIME FOR** 13 **DEFENDANTS TO RESPOND TO THE COMPLAINT**

14 Local Civil Rule 6.1(a) for the United States District Court, Northern  
15 District of California, states: "Parties may stipulate in writing, without a Court  
16 order, to extend the time within which to answer or otherwise respond to the  
17 complaint, or to enlarge or shorten the time in matters not required to be filed or  
18 lodged with the Court, provided the change will not alter the date of any event or  
19 any deadline already fixed by Court order. Such stipulations shall be promptly  
20 filed pursuant to Civil L.R. 5." Pursuant to L.R. 6.1(a), the parties stipulated to  
21 extend the time for plaintiffs to respond by 5 days. (See attached Exhibit "B")

22 Here, good cause exists for an additional 15 days to respond to plaintiffs'  
23 complaint, up to and including June 25, 2007. Plaintiffs' complaint is a complex  
24 environmental cost recovery case consisting of 39 pages and 20 causes of action.  
25 (Ledger Decl. ¶ 5) In addition, defense counsel is experiencing an unusually large  
26 volume of cases and "press of business" at this time. (Ledger Decl. ¶ 6) Additional  
27 time, beyond the current stipulated time for a response, is needed to prepare a  
28 thoughtful response to this complex case. (Ledger Decl. ¶ 7)

1 The requested extension of 15 additional days is not lengthy, and will not  
2 cause significant delay or undue prejudice to any party. Indeed, plaintiff's counsel  
3 has indicated its refusal to agree to a greater extension is because plaintiffs are  
4 upset and want to move the case forward. (Ledger Decl. ¶ 8)

5 Based on the foregoing, good cause exists for this Court's approval and  
6 grant of additional time for Defendants to respond to the pleadings in this matter,  
7 up to and including June 25, 2007.

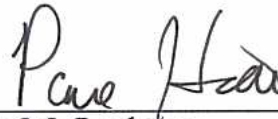
8 **IV.**

9 **CONCLUSION**

10 For the foregoing reasons, Defendants respectfully request that this Court  
11 grant their *Ex Parte* Application for an additional 15 days to respond to plaintiffs'  
12 complaint, and thus allow Defendants up to and including June 25, 2007 to file  
13 such pleading or motion.

14  
15 Dated: June 5, 2007

**GORDON & REES LLP**

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18 Brian M. Ledger  
19 Paul A. Henreid  
20 Attorneys for Defendants TECHNICHEM,  
21 INC., MARK J. NG, AND STEPHEN S.  
22 TUNG  
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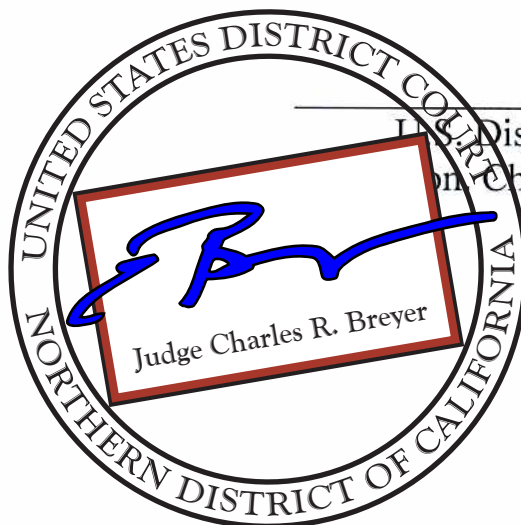
**ORDER**

Having reviewed Defendants' *Ex Parte* Application for an extension of time to respond to plaintiffs' complaint, and good cause appearing,

IT IS HEREBY ORDERED THAT:

Defendants are granted an additional 15 days to respond to plaintiffs' complaint, up to and including June 25, 2007.

DATED: June 7, 2007



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District Judge  
Charles R. Breyer